

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**CHARLES PENDLETON AND
BETTY PENDLETON**

PLAINTIFFS

VERSUS

CIVIL ACTION NO. 3:17-cv-00337-DPJ-FKB

**STATE AUTO PROPERTY & CASUALTY
INSURANCE COMPANY; HENNESSEY THAMES
AND LEAVITT INSURANCE AGENCY; NAN LYLES;
CERTIFIED RESTORATION DRYCLEANING
NETWORK OF CENTRAL AND SOUTHERN
MISSISSIPPI; AUSTIN MCCORMICK; HARLEY
VICKERS; DAVID CALVIN BEARD; KRIS TAYLOR;
AND JOHN DOES 1-5**

DEFENDANTS

**DEFENDANT'S, CERTIFIED RESTORATION
DRYCLEANING NETWORK OF CENTRAL AND
SOUTHERN MISSISSIPPI, MOTION FOR SUMMARY JUDGMENT**

COMES NOW, Defendant, Certified Restoration Drycleaning Network of Central and Southern Mississippi (hereinafter "CRDN"), and moves this Court for summary judgment and respectfully shows as follows:

1. This matter involves numerous Defendants and numerous counts, but the only count pled against CRDN is a count of negligence. With regard to said negligence count, CRDN would show that there are no genuine issues of material fact, and it is entitled to a judgment as a matter of law.

2. The only factual basis set forth in the Amended Complaint for the negligence count against CRDN is contained in Paragraph 20. In said paragraph, Plaintiffs contend that CRDN, and others, damaged Plaintiffs' clothes "with what is believed to be dye stains."

3. Prior to filing the instant case against CRDN and others, Plaintiff Charles Pendleton gave a deposition in a related matter wherein he testified that his clothes were stained

by leaking containers of dye that he and/or his wife had stored in the closet or attic above the closet. Accordingly, per Plaintiff's sworn testimony, the subject clothes were stained before CRDN took possession of the clothes such that CRDN can have no legal responsibility or liability for the clothes that were allegedly damaged/stained by said dye.

4. In support of its Motion for Summary Judgement, CRDN relies on the following:
 - a. Plaintiffs' Amended Complaint attached hereto as Exhibit "A" and incorporated herein by reference;
 - b. Deposition excerpts of Charles Pendleton attached hereto as Exhibit "B" and incorporated herein by reference;
 - c. Order entered by United States District Judge Daniel P. Jordan, III attached hereto as Exhibit "C" and incorporated herein by reference; and
 - d. Memorandum Brief in Support of Defendant's, CRDN, Motion for Summary Judgment (filed simultaneously with the filing of this motion).

WHEREFORE, PREMISES CONSIDERED, Defendant CRDN respectfully requests that this Court determine that no genuine issues of material fact exist which would support Plaintiffs' claims against this Defendant. Further, this Defendant respectfully requests that this Court enter a summary judgment in its favor in this matter.

Respectfully submitted, this the 14th day of September, 2017.

CERTIFIED RESTORATION
DRYCLEANING NETWORK OF
CENTRAL AND SOUTHERN
MISSISSIPPI

BY: /s/ W. Hugh Gillon, IV
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CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2017, I electronically filed the foregoing using the ECF system which sent notification to the following counsel of record:

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